IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

OurPet's Company, *Plaintiff,* *v.* **Van Ness Plastics Molding Co., Inc.,** *Defendant*.	Case No. 1:15-cv-2077 Judge Gaughan **REPORT OF PARTIES' PLANNING MEETING UNDER FED. R. CIV. P. 26(f), L.R. 16.3(b)(3), and LPR 2.1**

1. Pursuant to Fed. R. Civ. P. 26(f) and L.R. 16.3 (b)(3) and L.P.R. 2.1, a meeting was held on Nov. 30, 2015, and was attended by:

- David Welling, Counsel for Plaintiff, OutPet's Company
- Thomas A. O'Rourke, Counsel for Defendant, Van Ness Plastics Molding Co., Inc.

2. The parties do/ **do not** consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636(c).

3. **Scheduling**

a. Proposed Schedule:

Event	Due Date
Exchange of initial disclosures [FRCP 26] [14 days from 26(f) conference held on Nov. 30, 2015	Dec. 14, 2015
Plaintiff to serve infringement contentions and accompanying document production [LPR 3.1, 3.2] (15 days from responsive pleading) (responsive pleading: Dec. 9, 2015)	Dec. 23, 2015
Defendant to serve non-infringement contentions and accompanying document production [LPR 3.3, 3.4] (30 days later)	Jan. 22, 2016

Event	Due Date
Defendant to serve invalidity and unenforceability contentions and accompanying document production [LPR 3.5, 3.6] (80 days from responsive pleading)	Feb. 29, 2016
Exchange of initial claim terms for construction [LPR 4.1(a)] (95 days from responsive pleading)	Mar. 15, 2016
Plaintiff to serve validity and enforceability contentions [LPR 3.7] (20 days from invalidity / unenforceability contentions)	Mar. 21, 2016
Telephonic status conference with the Court	April 1, 2016 9:00 a.m.
Disclosure of claim construction(s) expert and report(s), if any [LPR 4.3(a)] (15 days from preliminary claim constructions)	Mar. 30, 2016
Exchange of final claim terms for construction [LPR 4.1(c)] (115 days from responsive pleading)	April 4, 2016
Disclosure of rebuttal claim construction expert(s) and report(s), if any [LPR 4.3(b)] (15 days from claim construction experts)	April 14, 2016
Exchange of proposed constructions and supporting evidence [LPR 4.2(a), (b)] (15 days from claim terms identification)	April 19, 2016
Last day to complete expert claim construction depositions [LPR 4.3(c)] (15 days from rebuttal experts)	April 29, 2016
Exchange of final claim constructions [LPR 4.2(c)] (5 days from claim construction discovery)	May 4, 2016
Opening claim construction submissions [LPR 4.4(a)] (15 days from final claim constructions)	May 19, 2016
Responsive claim construction submissions [LPR 4.4(b)] (30 days from opening claim construction submissions)	June 20, 2016

Event	Due Date
Disclosure of reliance on advice of counsel [LPR 4.8] (90 days before close of fact discovery)	
Joint claim construction and prehearing statements [LPR 4.5] (5 days from responsive claim construction submissions)	June 27, 2016
Claim construction hearing [LPR 4.6]	At the Court's convenience
Plaintiff to serve final infringement contentions [LPR 3.10(b)]	15 days after claim construction hearing pursuant to LPR 4.6
Close of fact discovery [LPR 4.7]	30 days after claim construction hearing pursuant to LPR 4.6
Defendant to serve final non-infringement contentions and final invalidity and unenforceability contentions [LPR 3.10(c)]	30 days after claim construction hearing pursuant to LPR 4.6
Post-claim construction status conference [LPR 4.7]	Within 30 days of claim construction hearing pursuant to LPR 4.6 at the Court's convenience
Plaintiff to serve final validity and enforceability contentions [LPR 3.10(d)]	45 days after claim construction hearing pursuant to LPR 4.6
Exchange of opening expert reports [LPR 5.1(b)]	60 days after issuance of the Court's claim construction ruling
Exchange of responsive expert reports [LPR 5.1(c)]	30 days after exchange of opening expert reports pursuant to LPR 5.1(b)
Completion of expert discovery [LPR 5.2]	40 days after exchange of responsive expert reports pursuant to LPR 5.1(c)
Deadline for dispositive motions	10 days after completion of expert discovery pursuant to LPR 5.2
Trial	At the Court's convenience

b. If the parties are advocating a departure from the dates set forth in the Patent Local Rules, set forth the basis for said departure:

None.

4. **Anticipated Motions**

a. The parties anticipate filing the following motions:

i. **Preliminary Injunction:** Not anticipated at this time.

ii. **Motion to add or substitute parties:** Not anticipated at this time.

iii. **Other:** Not anticipated at this time.

b. The following issues may be the proper subject of an early motion for summary judgment or partial summary adjudication:

i. **Inventorship or indefiniteness:** Not anticipated at this time.

ii. **Invalidating sale, offer for sale or display:** Defendant Van Ness intends to bring a motion for Summary Judgment of invalidity based on sales of stainless steel bowls with a rubber base by Van Ness' supplier in 1998 more than one year before the filing date of the patents in suit. Plaintiff disputes that the referenced mixing bowl is invalidating prior art.

iii. **Other:** Defendant Van Ness intends to bring a motion that Plaintiff's U.S. Patent No. 8,973,529 is not entitled to claim an effective filing date prior to October 15, 2012 because Plaintiff failed to comply with the Patent Office's rule 37 C.F.R. 1.78 for claiming priority. Plaintiff disagrees with the effect of this argument.

5. **Nature of Dispute**

a. **Describe the field of the claimed invention:** The claimed invention relates to pet feeding dishes.

b. **Claims asserted:** All claims (to be narrowed by Infringement Contentions).

c. The parties anticipate requesting that the Court construe the claim terms identified in the parties submissions to the Court per the Local Patent Rules.

d. **Describe the allegedly infringing activity or product**: The allegedly infringing product is Defendant's bowls as identified in the Complaint as Doc. 1-4.

e. **Describe any potentially non-fringing alternative designs:** N/A.

f. The parties have/**have not** stipulated that the above-described designs do not infringe the patents in issue.

6. **Discovery**

a. If the parties anticipate needing to propound interrogatories and/or take depositions in excess of the number provided in the Federal Rules of Civil Procedure, set forth the proposed limit and basis for the request:

The parties do not anticipate exceeding the discovery limitations set forth in the Federal Rules of Civil Procedure.

b. The parties do/ **do not** plan to submit an alternative proposed protective order for adoption by the Court.

c. Identify any issues the Court should be aware of with respect to the confidentiality concerns of the parties:

None at this time.

8. Claim Construction.

The parties will submit simultaneous briefs regarding any disputed claims construction issues consistent with the Local Patent Rules.

9. The parties **have**/have not consented, pursuant to Fed.R.Civ.P. 5(b)(2)(E), to the electronic exchange of pleadings, notices, discovery, and other mandated disclosures not otherwise served electronically via the Court's electronic filing system.

10. The parties have/**have not** discussed settlement and the appropriateness of Alternative Dispute Resolution.

Date: Nov. 30, 2015

By: David A. Welling, Esq., Counsel for Plaintiff

Thomas A. O'Rourke, Esq., Counsel for Defendant